

AMENDED IN SENATE JUNE 26, 2009

AMENDED IN ASSEMBLY MAY 4, 2009

AMENDED IN ASSEMBLY APRIL 13, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1438**

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**Introduced by Assembly Member Conway  
(Coauthor: Assembly Member Jones)**

February 27, 2009

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An act to amend Sections 116760.20, 116760.40, and 116761.23 of the Health and Safety Code, relating to drinking water.

LEGISLATIVE COUNSEL'S DIGEST

AB 1438, as amended, Conway. Safe Drinking Water State Revolving Fund.

Existing law, the California Safe Drinking Water Act, requires the State Department of Public Health to administer provisions relating to the regulation of drinking water to protect public health, including, but not limited to, conducting research, studies, and demonstration programs relating to the provision of a dependable, safe supply of drinking water, enforcing the federal Safe Drinking Water Act, adoption of enforcement regulations, and conducting studies and investigations to assess the quality of water in domestic water supplies.

Existing law establishes the Safe Drinking Water State Revolving Fund, continuously appropriated to the department for the provision of grants and revolving fund loans to provide for the design and construction of projects for public water systems that will enable suppliers to meet safe drinking water standards. The department may establish specified separate accounts or subaccounts within the fund.

This bill would allow the department to establish a wellhead protection account within the fund, as specified.

Under existing law, the funding for grants for the planning and preliminary engineering studies, and design and construction of a single project is set at a maximum of \$1,000,000.

This bill would require the department to set and publish, as specified, the maximum grant amounts for the planning, engineering studies, environmental documentation, design, or construction of *each community's share of* a single project.

Existing law requires the department to establish a priority list of proposed projects, including consideration of whether the applicant has sought other funds when providing funding for a project to upgrade an existing system to accommodate a reasonable amount of growth. Existing law defines "reasonable amount of growth," in part, to mean an increase in growth not to exceed 10% of the design capacity needed, based on peak flow, to serve the water demand in existence at the time the plans and specifications are approved by the department.

This bill would include fire flow as part of the water demand in the definition of reasonable amount of growth.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 116760.20 of the Health and Safety Code
- 2 is amended to read:
- 3 116760.20. Unless the context otherwise requires, the following
- 4 definitions govern the construction of this chapter:
- 5 (a) "Cost-effective project" means a project that achieves an
- 6 acceptable result at the most reasonable cost.
- 7 (b) "Department" means the State Department of Public Health.
- 8 (c) "Federal Safe Drinking Water Act" or "federal act" means
- 9 the federal Safe Drinking Water Act (42 U.S.C. Sec. 300f et seq.)
- 10 and acts amendatory thereof or supplemental thereto.
- 11 (d) "Fund" means the Safe Drinking Water State Revolving
- 12 Fund created by Section 116760.30.
- 13 (e) "Funding" means a loan or grant, or both, awarded under
- 14 this chapter.

1 (f) “Matching funds” means state money that equals that  
2 percentage of federal contributions required by the federal act to  
3 be matched with state funds.

4 (g) “Project” means proposed facilities for the construction,  
5 improvement, or rehabilitation of a public water system, and may  
6 include all items set forth in Section 116761 as necessary to carry  
7 out the purposes of this chapter. It also may include refinancing  
8 loans, annexation or consolidation of water systems, source water  
9 assessments, source water protection, and other activities specified  
10 under the federal act.

11 (h) “Public agency” means any city, county, city and county,  
12 whether general law or chartered, district, joint powers authority,  
13 or other political subdivision of the state, that owns or operates a  
14 public water system.

15 (i) “Public water system” or “public water supply system” means  
16 a system for the provision to the public of water for human  
17 consumption, as defined in Chapter 4 (commencing with Section  
18 116270), as it may be amended from time to time.

19 (j) “Reasonable amount of growth” means an increase in growth  
20 not to exceed 10 percent of the design capacity needed, based on  
21 peak flow, to serve the water and fire flow demand in existence at  
22 the time plans and specifications for the project are approved by  
23 the department, over the 20-year useful life of a project. For  
24 projects other than the construction of treatment plants including,  
25 but not limited to, storage facilities, pipes, pumps, and similar  
26 equipment, where the 10-percent allowable growth cannot be  
27 adhered to due to the sizes of equipment or materials available,  
28 the project shall be limited to the next available larger size.

29 (k) “Safe drinking water standards” means those standards  
30 established pursuant to Chapter 4 (commencing with Section  
31 116270), as they may now or hereafter be amended.

32 (l) “Supplier” means any person, partnership, corporation,  
33 association, public agency, or other entity that owns or operates a  
34 public water system.

35 SEC. 2. Section 116760.40 of the Health and Safety Code is  
36 amended to read:

37 116760.40. The department may undertake any of the following  
38 actions to implement the Safe Drinking Water State Revolving  
39 Fund:

- 1 (a) Enter into agreements with the federal government for federal  
2 contributions to the fund.
- 3 (b) Accept federal contributions to the fund.
- 4 (c) Use moneys in the fund for the purposes permitted by the  
5 federal act.
- 6 (d) Provide for the deposit of matching funds and other available  
7 and necessary moneys into the fund.
- 8 (e) Make requests, on behalf of the state, for deposit into the  
9 fund of available federal moneys under the federal act.
- 10 (f) Determine, on behalf of the state, that public water systems  
11 that receive financial assistance from the fund will meet the  
12 requirements of, and otherwise be treated as required by, the federal  
13 act.
- 14 (g) Provide for appropriate audit, accounting, and fiscal  
15 management services, plans, and reports relative to the fund.
- 16 (h) Take additional incidental action as may be appropriate for  
17 adequate administration and operation of the fund.
- 18 (i) Enter into an agreement with, and accept matching funds  
19 from, a public water system. A public water system that seeks to  
20 enter into an agreement with the department and provide matching  
21 funds pursuant to this subdivision shall provide to the department  
22 evidence of the availability of those funds in the form of a written  
23 resolution, or equivalent document, from the public water system  
24 before it requests a preliminary loan commitment.
- 25 (j) Charge public water systems that elect to provide matching  
26 funds a fee to cover the actual cost of obtaining the federal funds  
27 pursuant to Section 1452(e) of the federal act (42 U.S.C. Sec.  
28 300j-12) and to process the loan application. The fee shall be  
29 waived by the department if sufficient funds to cover those costs  
30 are available from other sources.
- 31 (k) Use money returned to the fund under Section 116761.85  
32 and any other source of matching funds, if not prohibited by statute,  
33 as matching funds for the federal administrative allowance under  
34 Section 1452(g) of the federal act (42 U.S.C. Sec. 300j-12).
- 35 (l) Establish separate accounts or subaccounts as required or  
36 allowed in the federal act and related guidance, for funds to be  
37 used for administration of the fund and other purposes. Within the  
38 fund the department shall establish the following accounts,  
39 including, but not limited to:

1 (1) A fund administration account for state expenses related to  
2 administration of the fund pursuant to Section 1452(g)(2) of the  
3 federal act.

4 (2) A water system reliability account for department expenses  
5 pursuant to Section 1452(g)(2)(A), (B), (C), or (D) of the federal  
6 act.

7 (3) A source protection account for state expenses pursuant to  
8 Section 1452(k) of the federal act.

9 (4) A small system technical assistance account for department  
10 expenses pursuant to Section 1452(g)(2) of the federal act.

11 (5) A state revolving loan account pursuant to Section 1452(a)(2)  
12 of the federal act.

13 (6) A wellhead protection account established pursuant to  
14 Section 1452(a)(2) of the federal act.

15 (m) Deposit federal funds for administration and other purposes  
16 into separate accounts or subaccounts as allowed by the federal  
17 act.

18 (n) Determine, on behalf of the state, whether sufficient progress  
19 is being made toward compliance with the enforceable deadlines,  
20 goals, and requirements of the federal act and the California Safe  
21 Drinking Water Act, Chapter 4 (commencing with Section ~~116275~~  
22 *116270*).

23 SEC. 3. Section 116761.23 of the Health and Safety Code is  
24 amended to read:

25 116761.23. (a) The maximum amount of a grant permitted  
26 under this chapter for the planning, engineering studies,  
27 environmental documentation, construction, or design of *each*  
28 *community's share of* a single project shall be established by the  
29 department and published in the Intended Use Plan submitted  
30 annually to the federal Environmental Protection Agency.

31 (b) Total funding under this article for planning, engineering  
32 studies, project design, and construction costs of a single project,  
33 whether in the form of a loan or a grant, or both, shall be  
34 determined by an assessment of affordability using criteria  
35 established by the department.